IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2569 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE
and
HON'BLE MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NATRAJ THEATRE

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2569 of 2001
MR AJAY R MEHTA for Petitioner No. 1
MR SG GORI, ASST. GOVERNMENT PLEADER for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE A.R.DAVE
and
HON'BLE MR.JUSTICE K.A.PUJ

Date of decision: 18/12/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE A.R.DAVE)

Rule. Service of rule is waived by learned AGP Shri S.G. Gori for the respondents. At the request of the learned advocates, the petition is finally heard today.

2. The petitioner has challenged the validity of an order dated 30.3.2001 passed by respondent No. 2, whereby the licence to run the cinema has been suspended.

3. It is not in dispute that the said licence has been suspended because the petitioner did not pay the amount of entertainment tax and interest thereon.

4. Learned AGP Shri Gori appearing for the respondents has submitted that as on 30.9.2003, including interest, a sum of Rs. 5,09,554/- was due and payable by the petitioner. As the said amount has not been paid, the licence has been suspended.

5. Learned advocate Shri Ajay Mehta appearing for the petitioner has submitted that the dues, which have been referred to in the impugned order, are in respect of the period when the theatre was being managed by another group. However, the petitioner is ready and willing to make the said payment, but because of financial difficulties, the petitioner would like to make payment in suitable instalments.

6. Looking to the fact that the unpaid amount of tax had become due when there was another group, which was managing the theatre, and as the present management is ready and willing to pay the past dues, in our opinion, it would be just and fair to grant some time to the present management for making payment of the past dues. The said arrangement shall not only help the present management to survive but shall also help the respondent authorities in getting their dues without further litigation.

7. Looking to the said fact, we direct that the amount due and payable shall be paid in monthly instalments of Rs. 50,000/- each. The first instalment shall commence from 1.1.2004 and each instalment shall be paid before 10th of the respective month. The last instalment shall include the balance amount, including the entire interest, which might have accrued during the period when the said instalments are being paid.

8. One of the partners of the petitioner firm shall give an undertaking to the effect that the amount shall be paid to the respondent authority in the aforesaid manner.

9. It has been submitted by learned advocate Shri Mehta that, though several applications for renewal of the licence have been given to the concerned authority, the last application having been submitted on 13.1.2000, the authority has not yet renewed the licence. It is hoped that respondent No. 2 shall look into the applications and pass appropriate final order as soon as possible and preferably within a period of 2 months from the date of receipt of a certified copy of this order.

10. It has been further submitted by learned advocate Shri Ajay Mehta for the petitioner that the application for licence had been submitted by one of the partners, who has now expired. The petitioner firm shall, therefore, submit an application for substituting name of the person, in whose favour the licence should be issued. Upon getting such an application, respondent no. 2 shall do the needful.

11. The impugned order of suspension of licence shall remain in abeyance till the entire amount is paid. Once the entire amount is paid, the order of suspension shall automatically stand cancelled.

In view of the above order, the petition stands disposed of as allowed. Rule is made absolute to the above extent with no order as to costs.

(A.R. Dave, J.)

(K.A. Puj, J.)

(hn)